IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

CRL.A.No. 2085 of 2003()

AGAINST THE ORDER IN CRLP.602/2003 Dated 05/12/2003
CC.1586/2001 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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APPELLANT: COMPLAINANT:

SMITHA P.N.,
RESIDING AT 18/611, SDPY ROAD,
PALLURUTHY, KOCHI-682 006.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.NAIR AJAY KRISHNAN
SRI.SAIJO HASSAN
SRI.A.S.SABU
SRI.A.G.GIRISH KUMAR

RESPONDENTS: ACCUSED & STATE:

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1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682 031.

2. SEBASTIAN,
RESIDING AT C.C.10/48, CHULLIKATTU HOUSE,
SOUTH OF SURIYANI CHURCH, PALLURUTHY,KOCHI-682 006

BY ADV. SRI.R.MURALEEKRISHNAN
PUBLIC PROSECUTOR, SRI THOMAS JOHN AMBOOKEN

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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Crl.A No.2085 of 2003 (D)

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Dated this the 1st day of March, 2007

J U D G M E N T

The complainant before the Judicial Magistrate of the First Class Court-II, Kochi, had come up before this Court challenging the dismissal of the complaint, preferred under Section 138 of the Negotiable Instruments Act and acquittal of the accused, on the ground of her absence, although her counsel was present. The reason of absence was that the complainant was out of station. But the Magistrate had posted the case, on that date, for the examination of the complainant. Her absence resulted the dismissal of the complaint.

2. During the hearing, the learned counsel for the appellant-complainant submitted that the complainant, had gone to attend a marriage and there was no proper conducting of the case by the advocate of the lower court.

3. Without going for elaboration, as the service is complete in respect of the respondents as well, I allow this

appeal, set aside the impugned judgment dated 14/10/2002 and restore C.C.No.1586/2001 to the file of Judicial Magistrate of the First Class Court-II, Kochi.

I direct the parties to appear before the Judicial Magistrate of the First Class Court-II, Kochi, on 02/04/2007. The learned Magistrate shall dispose of the case, within three months from the date of appearance of the parties.

(J.M.JAMES)
Judge

ms

J.M.JAMES, J.

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Crl.A No.2085 of 2003 (D)

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J U D G M E N T

1st March, 2007